

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SID HENNING,

Plaintiff,

-v-

CITY OF NEW YORK DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/26/10

No. 09 Civ. 8980 (RJS) (DCF)
ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

On October 26, 2009, Plaintiff Sid Henning, acting *pro se*, filed a complaint against the City of New York, the Department of Corrections, and several prison officials, alleging that they violated his constitutional rights while he was incarcerated. The case was referred to the Honorable Debra C. Freeman, Magistrate Judge, for general pretrial purposes. On May 5, 2010, Judge Freeman issued a Report and Recommendation, which recommended that the case be dismissed for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b). Judge Freeman noted (1) that Plaintiff had made no efforts to prosecute his case after filing the complaint, (2) that Defendants and the Court had made several unsuccessful attempts to contact Plaintiff, and (3) that evidence suggested that Plaintiff had been released from custody, but had not left a forwarding address or updated the prison address he had entered into the docket sheet. In light of Plaintiff's *pro se* status and the possibility that he may currently be incarcerated elsewhere, however, Judge Freeman recommended that the dismissal be without prejudice.

Judge Freeman advised the parties that failure to file timely objections within fourteen (14) days from the date of the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do

so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Freeman's Report and Recommendation is not facially erroneous. Accordingly, the Court adopts the Report and Recommendation in its entirety. For the reasons set forth in the Report and Recommendation, IT IS HEREBY ORDERED THAT the case is dismissed without prejudice, and the clerk of the court is respectfully directed to close the case.

SO ORDERED.

DATED: May 26, 2010
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE